IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO. 2860 OF 2007

Imran Abbas Shaikh. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Amin Solkar for the applicant.

K.V.Saste, APP for the State.

CORAM: V.C.DAGA, J.

DATED: 14th September 2007.

P.C.:

. Heard learned counsel for the applicant and learned A.P.P. for the State.

2. The applicant is seeking bail in Sessions Case No.837/2006 arising out of C.R.No.167/2006 registered with Kurla Police Station, Mumbai for the offences punishable under sections 302 read with section 34 of Indian Penal Code.

3. The applicant is presently in judicial custody. The learned counsel for the applicant submits that the applicant would be entitled to bail on parity with that of co-accused Sarfaraz Nasir Khan, who has already been enlarged on bail by this Court

vide order dated 2nd March, 2007 passed in Criminal Application No.386/2007. He further submits that this Court vide order dated 27th July, 2007 was pleased to reject the application of co-accused - Wasim Savle Shaikh.

4. Vide order dated 2nd March, 2007 (Bhatia, J.) accused No.3 was enlarged on bail, whereas vide order dated 27th July, 2007 (Daga, J.) bail was rejected to accused No.1 on the ground that role played by accused No.1 was identical to that of accused No.2, whose bail application was already rejected by this Court vide order dated 13th July, 2007 relying on Test Identification Parade statement of one of the witnesses.

5. However, so far as present applicant is concerned, he was not in the room when deceased came in the room along with accused Nos.1 and 2. In that view of the matter, learned counsel for the applicant submits that, on the ground of parity with that of accused No.3 the applicant is entitled to bail.

6. It is no doubt true that there is no eye witness of the incident. The case is based on circumstantial evidence only. As per the F.I.R., at 4.00 p.m. accused Nos..1 and 2 and the deceased were seen entering into the room but only accused Nos.1 and

2 were seen leaving the hotel. The present applicant and accused No.3 were seen in the room at about 2.00 p.m. In this backdrop, the applicant would be entitled to bail on parity with that of accused No.3. In the result, I am inclined to grant bail to the applicant, subject to the following conditions:

(a) The applicant, arrested in connection with CR.No.167/2006 registered with Kurla Police Station, Mumbai shall be enlarged on bail on his executing P.R.Bond of Rs.20,000/- with one or two local sureties to make up the said amount.

(b) The applicant shall report to the concerned Police Station once in a week, i.e. on every Saturday between 3.00 to 5.00 p.m. till conclusion of the trial.

(c) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential

address thereafter till the conclusion of trial without prior intimation to the investigating officer.

(d) The applicant shall not directly or indirectly, make any inducement or threat or pressurise any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(e) The applicant shall co-operate with the investigating agency for disposal of the case. It is needless to mention that breach of any of the conditions by the applicant shall result in cancellation of bail.

(f) Any observation made in this order shall not be construed as finding or expression on merits of the case at the time of trial.

7. Application stands disposed of accordingly.

JUDGE